IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 18570 of 2004**

Between:

K. Balarama Krishnamraju S/o Subramanyamraju
R/o Pedapulleru (V), Undi (M), West Godavari District

**..... PETITIONER**

AND

1 The District Cooperative Officer, West Godavari District at Eluru
2 Deputy Registrar of Cooperative Societies, Bhimavaram, West Godavari District
3 The chairperson, Managing Committee of Pedapulleru LACS, Pedapulleru, Undi (M), West Godavari District
4 K. narayana Raju S/o Suryanarayana Raju
r/o Pedapulleru, Undi(M), West Godavari District

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 3rd respondent dt 28-8-2004 there by appointing the 4th respondent as
in-charge secretary in the services of Pedapulleru large Sized Cooperative Society Ltd., ignoring the petitioner, though he is senior most and qualified for being promoted or posted as such is illegal, irregular, contrary to service bylaws of society and provisions of AP Cooperative Societies Act and also violative of Art: 14, 16 and 21 of the Constitution of India, set a Side the same and consequently direct the respondents to promote him as secretary of 3rd respondent society

**Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA**

**Counsel for the Respondents 1 to 3: GP FOR COOPERATION**

**The Court made the following:**

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**ORDER:**

This writ petition is filed seeking a writ of Mandamus declaring the proceedings of the 3rd respondent dated 28-08-2004 thereby appointing the 4th respondent as in-charge secretary in the services of Pedapulleru Large Sized Cooperative Society Limited ignoring the petitioner, though he is senior most and qualified for being promoted or posted, is illegal and contrary to service bye-laws of the Society and provisions of A.P. Cooperative Societies Act and
set aside the same with a consequential direction to the official respondents to promote him as Secretary of 3rd respondent society.

The case of the petitioner who joined as clerk in the services of Pedapulleru Large Sized Cooperative Society on
01-01-1977, is that he was promoted as accountant from 01-02-1985 and he was working to the utmost satisfaction of respondents 1 to 3. It is stated that due to attaining the superannuation of one Sri K.V.Krishnamraju, in-charge Secretary, there was a vacancy of Secretary in the society. The claim of the petitioner is that he is the immediate junior and senior most among the accountant cadre of the 3rd respondent society. As per the byelaws of the 3rd respondent society, he is entitled to be promoted as Secretary in the said vacant post. It is also stated that he possesses requisite qualifications for promotion as per the service conditions of bye-law No.17, for which he made representations dated 24-8-2004,
26-8-2004 and 19-9-2004 requesting the 3rd respondent to promote him as Secretary. Pending the same, the 3rd respondent placed the 4th respondent as in-charge Secretary of the society, by proceedings dated 28-8-2004.

Petitioner submits that the 4th respondent was appointed in the services of the same society on 14-05-1983 and he was promoted as accountant in the year 1987. Being a junior, the
4th respondent is not entitled for being placed in-charge Secretary. He further submits that he made a representation to the District Collector, Eluru on 26-9-2004

in this regard, which was rejected stating that he had no requisite qualifications to hold the post of Secretary as per bylaw No.2 of the 3rd respondent and arrangement was made only for temporary. Further it is also stated that he is prosecuting post graduation in Arts and successfully passed in the 1st year examination. He also passed SSC and Junior Diploma in Cooperation, which are equivalent qualifications prescribed under byelaw No.17, thus he entitled for being promoted for Secretary.

In those circumstances, the 1st respondent issued proceedings dated 02-08-2000 relating to issue of posting a senior employee as Secretary in-charge in S. Chikkala Society. The 1st respondent ought to have directed the 3rd respondent to place the petitioner as in-charge Secretary instead of 4th respondent. Aggrieved by the same, the present writ petition is filed.

On behalf of the 3rd respondent, a counter affidavit has been filed stating that the 4th respondent has temporarily been promoted as in-charge Secretary of the 3rd respondent society, vide proceedings dated 28-8-2004. It is not in dispute that the petitioner joined the service of the Society on 01-01-1977 but he was temporarily promoted as accountant vide resolution dated

30-01-1985 with effect from 01-02-1985. Subsequently, vide resolution dated 01-10-1988, the petitioner was regularized as accountant with effect from 01-10-1988. The 4th respondent joined in the services of the Society as Salesman on 14-05-1983 vide resolution dated 10-05-1983. He was promoted as Clerk on

14-05-1984 and promoted as accountant on 01-09-1987. He is a graduate in Commerce and he has done Junior Diploma in Cooperation, whereas the petitioner does not hold any graduation degree and is now prosecuting post-graduation in Arts directly without holding graduation. The 1st respondent vide proceedings dated 28-8-2004, directed the 3rd respondent to make arrangement for appointing in-charge Secretary. The bye-laws of the Society prescribe the qualifications for the post of Secretary, as

“holding Degree in B.A., or B.Com., or B.Sc., from any recognized University and a Course of Training in “Cooperation”. As per the byelaws, the petitioner is not eligible to be appointed as Secretary, as he does not hold any degree (graduation) qualification.

It is specifically denied in the counter that the petitioner has passed SSC and Junior

Diploma in Cooperation, which is an equivalent qualification as prescribed under the byelaws of the Society.

As the petitioner does not possess the minimum requisite qualification of graduation degree, for the promotion of Secretary, he is not eligible; hence, he prays to dismiss the writ petition.

Learned counsel for the petitioner contends that since the petitioner is in service, he ought to have been considered as senior to 4th unofficial respondent and therefore the case of the writ petitioner may be considered in accordance with by-laws 17 of the society.

On the other hand, the learned counsel appearing for the 3rd respondent contends that the degree (graduation) is must for the promotion from accountant to the Secretary and that cannot be dispensed with.

Learned counsel for the 4th respondent also raised the same contention that though the petitioner was appointed initially as a clerk in the Cooperative Society on 01-01-1977, he was promoted as accountant on 01-02-1985 whereas the 4th respondent was initially appointed in the year 1983 and was promoted as an accountant in the year 1987. By the impugned proceedings, the 4th respondent has been placed as an in-charge Secretary of the Society. Challenging the same, present writ petition is filed.

There cannot be any dispute that the byelaw is no statutory force, so that the same can be challenged in the proceedings if that aspect of the case is in dispute. If the learned counsel for the petitioner prays to consider the case of the petitioner, in accordance with byelaws, when the petitioner fulfills the eligibility for the promotion as secretary, then necessary directions can be given to the authorities to act in accordance with byelaws. But as seen by the byelaws, no person shall be eligible for the purpose of Secretary unless he possesses the minimum requisite qualification of degree (graduation) of B.A. B. Com, or B.Sc., from any of the recognized universities, in the case of Societies having a working capital of Rs.1,00,000/- or more and SSLC eligible for collegiate course in others. So even

according to these byelaws, the minimum education qualification is degree (graduation) for Secretary, Therefore, the question of consideration of the petitioner's case for his appointment as Secretary, by the 1st respondent does not arise.

The writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

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**K.C. BHANU, J**

**Dated: 18-07-2005**

**LSK**

To

1 The District Cooperative Officer, West Godavari District at Eluru
2 Deputy Registrar of Cooperative Societies, Bhimavaram, West Godavari District
3 The chairperson, Managing Committee of Pedapulleru LACS, Pedapulleru, Undi (M), West Godavari District
4 Two C.Cs. to the Government Pleader for Cooperation, High Court buildings, Hyderabad. (OUT)

5 Two C.D.copies.